

Journal
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Society

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SPECIAL ISSUE—

- ★ *Lawyer Referral and
Unauthorized Practice*

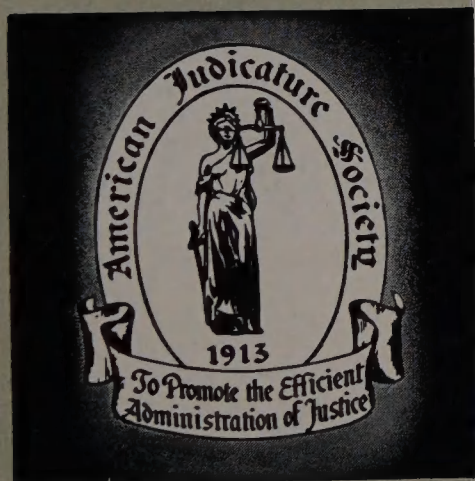
Editorial

- ★ *Lawyer Referral--A Brief History*
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- ★ *Procedures and Operations
of Lawyer Referral Offices*
by Frank J. Madden

- ★ *Lawyer Referral and Other Bar Services*
by Paul Carrington



The American Judicature Society

TO PROMOTE THE EFFICIENT
ADMINISTRATION OF JUSTICE

Founded in 1913 by Herbert Lincoln Harley
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Lawyer Referral and Unauthorized Practice

NO OTHER activity of the organized bar is more misunderstood by non-lawyers than the fight against unauthorized practice of law. The practice of law is everywhere a government sanctioned legal monopoly, and it is very easy even for friendly laymen to look upon the work of unauthorized practice committees as merely a matter of keeping intruders out of the lawyers' private domain.

The National Conference on Unauthorized Practice of Law held in New York on May 24-26 ought to be of some help in dispelling mistaken ideas about it. Former A.B.A. President John D. Randall, a long-time leader in the field of unauthorized practice, emphasized in his address to the Conference that elimination of unauthorized practice is, in fact, one of the public service programs of the bar. This is true because, in spite of individual exceptions, non-lawyers are not capable of rendering adequate legal services, and it is the responsibility and duty of lawyers not only to correct the mistakes of unqualified practitioners when they can, but also to do what they can to prevent them from being made in the first place.

There are two ways of doing that, one negative and one affirmative. The negative one consists of keeping a sharp eye open for evidences of unauthorized practice and taking suitable action against the offenders to put a stop to their activities. The affirmative approach is to see that every person has

access to the services of a competent lawyer.

Not everybody finds this a problem. Business men and people of wealth and prominence understand the function of the lawyer and know a lawyer to consult when they need one. Free legal aid is available to most of the poor people of the country. There may be some unauthorized practice among these classes, but not much. The rich and successful are too smart to entrust their affairs to the unqualified, and few unauthorized practitioners are interested in charity work that does not pay a fee.

It is the great middle class of people who are not eligible for legal aid but do not know a lawyer that provide most of the business for unauthorized practice. As the

reader will quickly see on turning the pages of this Journal, these are the very people toward whom lawyer referral is directed.

No speech or panel discussion on lawyer referral was scheduled at the New York conference, but perhaps there should have been, for lawyer referral service stands out as the profession's great affirmative weapon to combat unauthorized practice, not by repressive measures against the wrongdoer but by getting there first with the right kind of service by the right man.

In that spirit, we commend this special lawyer referral issue of the Journal to both the lawyer referral committees and the unauthorized practice committees of every bar association in America.

HOW TO LOSE A BALL GAME

OUR distinguished contemporary, the Law Society's Gazette, of London, England, has commented interestingly on a recent editorial in this Journal. Says the Gazette:

The Journal of the American Judicature Society is right to declare that "if every judge appointed is well qualified we will gladly congratulate the President . . . on a good job well done, regardless of party labels." However, it seems to betray signs of an outlook that may in the end defeat its wholly admirable desire to have fitness for office accepted as *the* principle of selection, for it expresses the hope that "the new administration will acknowledge the desirability of a 50-50 or 60-40 ratio." Why, if possession of the necessary qualities of mind and experience is the decisive factor in judicial appointments, should political colour ratios enter into the question at all?

This is a fair question and it deserves a fair answer. The voting population of this country is nearly evenly divided between Republicans and Democrats, the greatest discrepancy in any national election having been of the order of 55-45. Presumably then, although we are not aware of any count having been made, the lawyer popu-

lation is divided about the same way. Within lawyer ranks, it is hardly to be supposed that judicial talent inheres in one party any more than in the other. If, then, judicial appointments were actually made without "political colour" entering into the question at all, there would be bound to be a substantial number from each party. We look at the political ratio not at all as an end in itself, but simply as an *index* of the extent to which partisanship appears to enter into the choices. And we agree most heartily with the Gazette that it should not enter into them at all.

To our friends in a land that has a long and proud tradition of true non-partisanship in judicial selection, this entire line of thinking no doubt seems odd and out of place. We should like to clarify and emphasize our point with an analogy drawn from another area of life—the selection of members of athletic teams in the light of racial discrimination.

Let us postulate an American town in which the citizenry is approximately evenly divided between the white and colored races. It may then be reasonably supposed

that high school students will be in about the same proportions, and likewise those who are athletically inclined. Now let us suppose that for a period of eight years Coach A selects only white students to play on the school's teams, defending his choices on the ground that color is no criterion as long as each individual can play ball. Then the school administration changes, and for eight years Coach B picks only colored students to represent the school in athletic contests.

Three questions—

1. Is the home town newspaper out of

order in demanding that teams be made up on the basis of athletic skills and not color of skin, and questioning whether the latter consideration was disregarded by either either Coach A or Coach B?

2. Has the coach done his duty to the school if his teams are made up of merely *well* qualified players when *better* qualified students of the other race are on the sidelines?

3. In a game with a rival school represented by a team made up of the best players of both races, which school is most likely to win?

1962 ANNUAL MEETING WILL BEGIN SOCIETY'S 50th YEAR

FIFTY years ago this summer, Herbert Harley, the American Judicature Society's great founder, was busy drawing up the plans and making the initial contracts that were to result in the incorporation of the Society on July 15, 1913. Thus the coming July 15, 1962, will mark the beginning of the American Judicature Society's Fiftieth Year.

Members of the Society will be hearing more during the coming months of plans for a fitting observance of our Semi-Centennial years which will both honor the past, assess the present and plan for the future. Already they have been invited to have a very special part in the Semi-Centennial by becoming a Fiftieth Year Sustaining Member through a special contribution of fifty dollars (or more). This issue of the Journal went to press too soon to report on the returns, but not too soon to note an enthusiastic reception for the developing program and plans by the directors and former directors of the Society.

President Cecil E. Burney has appointed a Semi-Centennial policy committee comprised of Associate Justice William J. Brennan, Jr. of the Supreme Court of the United States; Presiding Justice Louis H. Burke of

the District Court of Appeal, Los Angeles; Philip S. Habermann, executive secretary of the State Bar of Wisconsin; Albert J. Harno, former president of the Society and now Illinois court administrator, Springfield, Illinois; Associate Dean Charles W. Joiner of the University of Michigan Law School; Dean John Ritchie III of Northwestern University Law School; and Will Shafroth, former assistant secretary of the Society and now assistant director of the Administrative Office of the United States Courts. This committee was scheduled to meet with the Society's executive committee in Washington on May 25 to go over Semi-Centennial plans for submission to the directors and members at the annual meeting.

The 1962 annual meeting, marking the formal opening of the Fiftieth Year observances will be in the Peacock Court of the Mark Hopkins Hotel, San Francisco at 8:00 a.m., Wednesday, August 8. All Fiftieth Year Sustaining Members will be special guests of honor at that meeting, as well as being listed in one of the Golden Anniversary issues of the Journal. Further details of the annual meeting program will be announced in future issues of the Journal.



GEORGE G. GALLANTZ, practices law in New York and is a member of the American Bar Association's Standing Committee on Lawyer Referral Service.

Lawyer Referral **A BRIEF HISTORY**

by George G. Gallantz

TO THE question "Why lawyer referral?", George Wharton Pepper once answered that lawyer referral "is for the bar a measure of self-preservation. Self-interest should prompt us to put the bar in a new light before the many citizens who think of lawyers as selfish and self-centered and who regard the law as the most unpopular of professions."

To help put that kind of new light on law and lawyers, the American Bar Association first turned its attention in 1937 to what we now call lawyer referral. In that year, legal aid was already an established fact. Those who worked in that field had noted, however, that although legal aid

filled a definite need, it left untouched a large group of people who were not and did not want to be charity cases and who did not consult lawyers though they had problems that needed the attention of lawyers.

Lawyer referrals were first made in Los Angeles in May, 1937. In that same year, the American Bar Association appointed a Special Committee on Legal Clinics. The committee's name itself reveals the nature of the solution which was then envisaged—a "clinic" of some sort, corresponding to the clinics then and now existing in the field of medicine established to provide at low, or no cost, the services of qualified physicians to patients of low income.

The Philadelphia Neighborhood Plan

In 1938 the Special Committee reported that the problem was a real one and recommended further investigation of a means of solving it. The A.B.A. authorized such further investigation and the committee, in 1940, made a study of the Philadelphia neighborhood plan.

Under that plan, existing or newly formed partnerships with offices in 10 or 11 neighborhoods throughout Philadelphia, with no financial connection with each other, agreed with the bar association to maintain certain standards and to charge minimum fees. The association referred clients to these neighborhood offices and encouraged others to refer to them clients whose income did not exceed \$2,000 a year.

Occasioned in some degree by the depression, the plan seemed to catch on. From its inception in November, 1939 to June, 1940, a period of 8 months, 475 matters were handled by 27 lawyers under the plan. Among

the clients who availed themselves of it were laborers, teachers, clerks and other small wage earners. The plan was hailed by some as a boon to young lawyers in search of clients and by others as the performance of a duty owed by the bar to that vast middle class not eligible for legal aid and to whom contact with lawyers was a strange experience.

Opposition to the plan was voiced by those who felt that the plan put the organized bar in the position of competing with lawyers for business and by those who felt that the dignity of the profession was lowered by making lawyers' services available like groceries at a neighborhood store, and at bargain prices.

Experienced Lawyers' List Service

The 1940 report of the Special Committee on Legal Clinics called attention also to what we now know as the lawyer referral service which had been instituted in a number of other cities. Under this plan, the local bar associations fostered a panel of young lawyers to whom clients would be referred at their own offices. The bar associations in these instances represented to the public that it believed the lawyers on its panel to be competent in their particular specialties. Publicity was given to the plan to encourage prospective clients to come to bar associations for such referrals. Under such a system, Los Angeles had established in 1937 a so-called "Experienced Lawyers' List Service" which made 622 referrals during the three years ending May, 1940. Other cities such as Chicago and St. Louis had also established such services by 1940.

After studying the neighborhood plan, the referral service, and a number of other devices that had been suggested, the Special Committee recommended the endorsement by the A.B.A. of local referral services with the following four major characteristics:

First, the establishment of a list of recommended lawyers under the auspices of a

local bar association;

Second, the fixing in advance of a modest fee for the first conference—in Chicago the plan called for \$3 for one-half hour, \$5 for a full hour at the first consultation;

Third, a system of record-keeping under which lawyer-panelists to whom matters were referred would report back the results of each consultation; and

Fourth, disputes between the client and the lawyer would be referred back for final determination by the bar association.

The present Standing Committee on Lawyer Referral Service was established by the A.B.A. in 1951 to succeed the committee that was at first named the Special Committee on Legal Clinics and then went through a number of changes of name. In the years from 1940 to 1951 the Special Committee continued actively to spread the idea of lawyer referral.

As it continued to examine and to re-examine the basic need for lawyer referral, it arrived at a number of now thoroughly accepted conclusions. We now know, for example, that as many as 80 to 90 per cent of those who take advantage of lawyer referral have never before consulted lawyers.

A Variety of Kinds of Cases

The variety of types of business that come to lawyers through lawyer referral is as great as the variety of business to be found in the office of any general practitioner. Panelists for lawyer referral are called upon to prepare contracts and other business instruments, to handle matrimonial matters, to prepare wills and conveyances, to appear in the probate courts, the bankruptcy courts and to handle many types of litigation. Such variety suggests that, in addition to the valuable public service that can be done by making lawyer referral a success, there is raw material here from which lawyers may add to their income.

In the nature of things, an important percentage of referrals come from legal aid, municipal and other public agencies, and better business bureaus. But it must never

be assumed that the personnel of these various groups and agencies know about lawyer referral—how it works and what it means, until they are in some manner informed about it. Time and again throughout the country it has been found that the most important impetus for lawyer referral comes from use of the methods of mass communication, including television and radio. And we find that when the mass communication effort falters, or becomes dormant, the entire movement seems to retrogress.

In 1942 the A.B.A. Committee on Professional Ethics and Grievances specifically approved the use by lawyer referral of publicity designed to tell why legal problems should be brought to lawyers and how lawyers' services could be obtained at reasonable cost.

It is the expressed policy of the A.B.A., established in 1951, to foster "the promotion and establishment within the legal profession of organized facilities for the furnishing of legal services to all citizens at a cost within their means." There were about 65 lawyer referral plans in operation or authorized when the present Standing Committee came into being.

In that year there were a number of cities and states that had already distinguished themselves by their activities in this field. One leader was, of course, California, whose story is told in an accompanying article. There were others, quite a few others, and many have followed since.

Progress in Opening New Offices Has Been Rapid

By 1953 there were 100 services in the United States and 40 additional bar associations were scheduling immediate consideration of the establishment of lawyer referral services. By 1953 the number of clients served in a year had risen to 48,000. Still, only the surface had been scratched. The Standing Committee estimated that the potential clientele for lawyer referral service throughout the country probably ap-

proximated one million, that, for example, only 25 per cent of those who bought real estate were being represented by lawyers and as many as 85 per cent of those dying leaving property were dying intestate.

The devoted efforts that have gone into lawyer referral during those early years is truly an inspiring story, but lack of space prevents any attempt here to name the bar leaders who deserve credit for this achievement. Nor is it possible to name all the many landmarks of progress that have been built along the way. Only a few can here be cited.

Landmarks in Lawyer Referral's History

There were, for example, the annual National Conferences on Lawyer Referral first held in Chicago in 1952, and since held in other large cities. Each of these conferences attracted 100 or more lawyers interested in the field, who gathered to exchange ideas and to tell of their progress and frustrations.

Another landmark is the handbook compiled by the Standing Committee, a marvel of inclusiveness and simplicity. It has been through four editions and thousands of copies of it have been circulated through the mails and at the A.B.A. national and regional meetings. It may well be commended to the careful study of every lawyer interested in the esteem in which his profession is held.

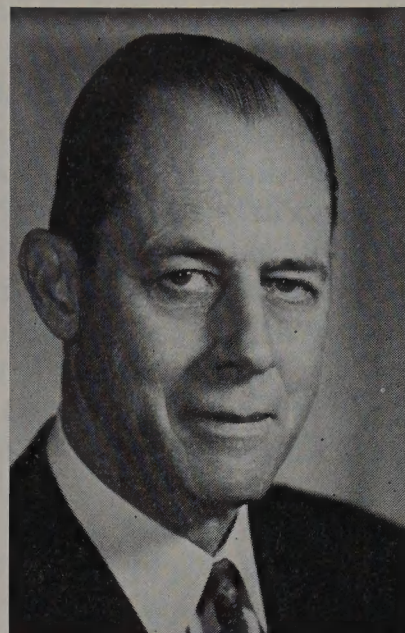
The Standing Committee is also proud of the space that has been given to lawyer referral in professional journals, as well as periodicals of general circulation. Among these is the prominence given in May, 1961, by the Texas Bar Journal to the related subjects of legal aid and lawyer referral and to a state-wide survey of those subjects made by the Southern Methodist University Law School.

In 1954 the Standing Committee started the publication of a series of bulletins designed to inform and keep informed those

(Please turn to page 316)

Current Development *of* **LAWYER REFERRAL IN CALIFORNIA**

by Theodore R. Meyer



THEODORE R. MEYER, a member of the American Judicature Society, is president of The State Bar of California.

CALIFORNIANS are proud of the fact that lawyer referral was "invented" in California. On May 10, 1937, the Los Angeles County Bar Association, then known as the Los Angeles Bar Association, commenced the operation of what is believed to be the first lawyer referral service in the United States. The service was designed to meet the needs resulting from the great influx of population into the Los Angeles area, most of the newcomers being people who were unfamiliar with California laws and unacquainted with attorneys who could assist them with their personal, property and business problems in the new community.

The Los Angeles service was established as a result of studies which had been carried on for some time, and after an opinion was obtained from the Ethics Committee of the American Bar Association to the effect that advertising the service would not constitute unprofessional solicitation. It is not only the oldest such service in the

country, but is the largest and one of the most efficiently operated in California.

At the last report, as of June 30, 1961, there were 42 lawyer referral services operating in California. This represented an increase of 10 from the 32 services which were in operation a year previously. This substantial growth in terms of the number of offices as well as the number of referrals is seen in detail on the accompanying chart on page 312.

Scope of Local Programs Varies

Lawyer referral services in California exhibit great diversity, partly but not entirely due to the fact that the communities which they serve range from very large to comparatively small. Some services have only a few participating lawyers on their panels, while others have many hundreds. Some handle only a few dozen cases each year; others handle several thousand. In the larger cities referrals are made by experienced staff members, while in smaller towns

they are sometimes made on a simple rotation basis by a telephone answering service. Some maintain elaborate categories of specialties; in others there is a single panel without specialty classifications. In some, only 9 or 10 per cent of the members of the sponsoring bar association belong to the panel, while in others all members of the bar association are required to be members.

In four of the larger cities, lawyer referral is operated in a separate office from legal aid, but elsewhere the two are usually operated out of the same office. Some referral services operate at a loss and are subsidized by the sponsoring bar associations; others realize a "profit" from membership dues and forwarding fees, the profit being normally used for the support of legal aid. In some communities legal aid could not exist but for the financial assistance received from the lawyer referral operations.

Rules Should Be Flexible To Promote Greater Activity

Experience in California indicates that the rules governing lawyer referral services should not be too rigid, else the result may be less rather than greater lawyer referral activity. The State Bar of California has adopted "Minimum Standards for a Lawyer Reference Service in California" (Lawyer Referral is usually called "Lawyer Reference" in this State.) These minimum standards, generally speaking, are derived from the "Code of Basic Principles Governing the Organization and Operation of a Lawyer Referral Service" contained in the *Lawyer Referral Service Handbook* of the American Bar Association.

The principal requirements of the minimum standards are that a lawyer referral service may only be established by a "recognized bar association" (recognition is by action of the board of governors of our State Bar); that it must be supervised by a committee of the bar association; that it must operate with a panel of lawyers who

agree to abide by its rules and regulations; that it shall provide for publicity conforming to A.B.A. standards; that the service must not be located in the office of any member of the panel; that all referrals shall be made by a disinterested person in a fair and impartial manner; and that adequate records should be kept and reports made to the State Bar.

The Role of the State Bar

The State Bar, (California has an integrated bar), plays a dual role in lawyer referral. First, it requires reports from, and makes investigations of, lawyer referral services operated by local bar associations to the extent necessary to determine that they comply with the minimum standards. Although abuses are few and far between, it must be recognized that lawyer referral is susceptible to possible abuse, and consequently a reporting and checking procedure is followed to assure compliance with the standards.

Second, the State Bar assists and encourages local bar associations in establishing new lawyer referral services, and in strengthening and improving those that already exist. Many local bar associations, having expressed an interest in lawyer referral, have been enabled to institute a service by reason of the help and suggestions which the State Bar can make available to them.

For a number of years prior to 1961, the work of encouraging organization of lawyer referral services by local bar associations was carried on primarily by a State Bar committee, with occasional assistance from State Bar staff members. However, commencing in January 1961, the State Bar engaged an experienced lawyer as a full time staff member, to devote his efforts primarily to lawyer referral. One of the results has been the substantial increase in the number of lawyer referral services previously noted.

The State Bar's decision to engage a staff

member with the primary duty of promoting lawyer referral was motivated principally by its studies and experiences in connection with "group legal services". Group legal services are mainly of two kinds. One form is that in which a trade association, labor union or other organization employs or retains a lawyer to perform certain types of legal services for its members. The member who has a legal problem is sent to the lawyer and receives advice and services from the lawyer; the services, or perhaps the first consultation, being "free."

A second form of group legal services is this: a trade association, labor union, or other organization that makes an arrangement with a lawyer to refer all of its members to him, either for certain types or for all kinds of legal services. The lawyer collects his fee from the member to whom the services are rendered. In some cases the referrals may be merely unsolicited voluntary referrals, such as every lawyer receives from satisfied clients. But others involve systematic referral arrangements, under which the organization derives some consideration or benefit, as by receiving part of the fees or by receiving free or reduced-rate legal services from the lawyer. There may be several lawyers, or a panel of lawyers, to whom the organization thus refers its members.

An Obvious Resemblance

This second type of group legal services bears an obvious resemblance to lawyer referral. In fact it *is* lawyer referral, operated by non-lawyers, and without the safeguards which lawyers impose upon themselves with respect to the operation of lawyer referral services.

The State Bar has been studying the subject of group legal services for some years. Two special committees have made investigations and rendered reports, and public hearings have been held at which representatives of all points of view have had the opportunity to express themselves. A standing committee has recently been appointed

to continue these studies.

There are legitimate differences of opinion as to whether group legal services of the second type mentioned above are socially desirable and whether they should be permitted under some conditions. However, regardless of one's viewpoint on this question, it seems apparent that the legal profession is in competition with others in the field of lawyer referral. Those who say that group legal services of the second type should be permitted, contend that lawyer referral services are inadequate and that they are not doing the job.

The Need for Expanded Lawyer Referral Services

It is a quite clear that there is a great need for expanded lawyer referral, and the organized bar is faced with the question whether such expanded services are to be performed by the bar under standards designed for the protection of the public and the profession, or whether they are to be performed by other organizations. If the bar does not fill the need for lawyer referral services, other organizations, with interests of their own, stand ready to do so.

With these considerations in mind, the State Bar determined that it should step up its program of assisting local bar associations in organizing and strengthening lawyer referral services. The results have been most gratifying and the groundwork has been laid for much further development and improvement of these services.

California's message concerning lawyer referral is two-fold: first, we are convinced that there is a great and growing need for lawyer referral, and that if this need is not met by the organized bar, others will endeavor to meet it in their own way; and second, we have learned that a modest amount of assistance and encouragement by a State Bar can produce very rewarding results in the organization and improvement of lawyer referral services operated by local bar associations.

LAWYER REFERRAL IN CALIFORNIA 1959-1961

City or County	1959	1960	1961*
San Diego	3168	3320	3211
Los Angeles County	2429	2331	2563
San Francisco	1500	1883	2036
Orange County	1220	1676	1992
Alameda County	1823	1150	1610
Wilshire	—	—	1500**
Sacramento	1264	1250	1403
Santa Clara County	1010	942	1363
Pasadena	1191	1401	1259
San Mateo County	487	1050	1222
San Fernando Valley	863	980	1062
Long Beach	883	900	800**
Sunnyvale	473	300	749
Lawyer's Club, S.F.	538	625	550
San Bernardino	823	689	547
South Bay, Dist. L.A.	—	393	485
San Gabriel Valley	64	245	462
Marin County	230	295	350
Fresno	—	215	308
Glendale	299	267	305
West Hollywood	—	—	294
Pomona Valley	—	—	225
Southeast Dist. L.A.	—	222	204
Palo Alto	—	29	188
Solano County	24	66	188
Sonoma County	9	92	167
Central Contra Costa	—	—	161
San Joaquin County	177	99	152
Santa Barbara	—	—	150
Richmond	—	29	142
Monterey County	—	30	140**
Kern County	164	97	125
Riverside	—	119	119**
National Lawyers Guild, S.F.	89	97	88
Ontario	—	—	80
Stanislaus County	71	47	73
Ventura	—	—	70
Southwest Los Angeles	40	—	70**
Merced	—	18	43
Compton	53	30	23
Totals: 42***	18,892	20,887	25,479

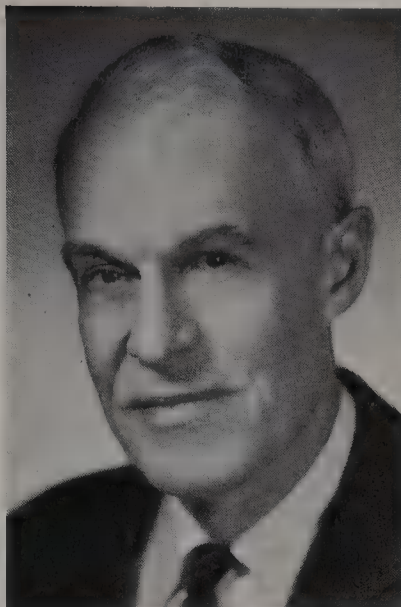
*1961 was the first full year in which the State Bar of California employed a full time staff assistant to work with lawyer referral offices throughout the state. During the year the service had a substantial growth of more than 20 per cent in the number of referrals.

**Final figures for that calendar year not yet furnished.

***The total includes two services not listed above: Harbor Bay, a limited military referral service which did not report cases in 1961; and Southern Alameda County, a newly established office not in operation in 1961.

PROCEDURES AND OPERATIONS OF LAWYER REFERRAL OFFICES

a Study in Contrasts



by
FRANK J.
MADDEN

FRANK J. MADDEN, who practices law in Chicago, is a member of the Standing Committee on Lawyer Referral Service of the American Bar Association.

A SURVEY of practices and procedures of lawyer referral services in various parts of the country was conducted during 1961 and early 1962 by a subcommittee on standards and policies of the Standing Committee on Lawyer Referral Service of the American Bar Association. Eight cities were selected because their practices were substantially divergent: Boston, New York, Washington, D.C., Chicago, St. Louis, Memphis, Portland and Seattle. Various cities in California were also included.

The subcommittee sent questionnaires to the bar associations of these cities and tallied replies received from them. In addition, members of the subcommittee had personal discussions with well informed persons on this subject in sundry other communities. Other information which had been accumulated in recent years by the Standing Committee was also used.

The examples used in this article represent only a sample of the variety of lawyer referral procedures now being practiced. Enumeration of the many modifications and variations in combining different procedures is beyond the scope of this brief

article. Some suggestive tendencies do emerge, however, from a condensed view of the contrasts which are to be found in the procedures and operations of lawyer referral offices in various cities and circumstances.

Wide variations in methods of installing lawyer referral services as well as in maintaining and operating them were found to exist throughout the country. The Standing Committee has directed the attention of city bar associations which have not as yet established lawyer referral services to these variations.

A lawyer referral service can be set up readily either in a small community or a large city. The first question that arises when a local bar association decides to install such a service is who is going to interview the public applying for help and refer people to lawyers. The following agencies have been found satisfactory.

In sparsely settled areas judges have shown a willingness to take time from their work, provided they are not too busy, to see people and recommend members of the bar.

In towns and small cities, under the guidance of the local bar associations, even laymen of recognized integrity have been used, for example, court clerks, librarians, newspaper editors, secretarial services, and public stenographers. Such people talk to members of the public wanting to find lawyers, either personally or over the telephone, give them names in rotation from panels developed by the local bar associations, and inform the lawyers to whom references have been made of the fact that they have been named. The activities of such lay persons are carefully overseen by the local committees.

In towns and small cities, services have also been operated by local bar association officers. For example, in several places presidents of bar associations have given part of their time to this work and in other places members of the lawyer referral committees have taken turns in doing so. If the local bar association is large enough to maintain an executive director, he also has functioned.

In larger cities bar associations assign part or all of the time of employed personnel to this work.

The files of the A.B.A. show that members of bar association committees handle the lawyer referral service in Emporia, Kansas; White River Junction, Vermont; Springfield, Massachusetts; and Warsaw, Wisconsin; that a secretarial service does it in Modesto, California; that the president of the bar association helps out in Alexandria, Louisiana, and Bethlehem, Pennsylvania; that executive secretaries of local bar associations do the work in Akron and Canton, Ohio; Little Rock, Arkansas; Jacksonville, Florida; and Pittsburgh; that legal aid offices contribute their time in Waterbury, Connecticut; Waterloo, Iowa; Tacoma, Washington; and Salt Lake City; and that a public stenographer serves in Kalamazoo, Michigan.

The survey conducted by the subcommittee shows that lawyer referral is run by

a separate director in St. Louis, Seattle, New York, and Boston, and by the city bar association secretary in Chicago and Washington, D.C.

Lawyer Referral Offices

When the question of who will do the interviewing is settled, the questions whether an office need be maintained and, if so, where, may be partially or completely answered. If a court clerk or secretarial service is going to run it, no office will be necessary. Under other set-ups an office may be necessary. The A.B.A. files show that the service is housed in legal aid offices in Birmingham, Alabama; Waterbury, Iowa; Tacoma, Washington; and Salt Lake City. The subcommittee survey shows that city bar association offices are used in Chicago and Washington, D. C. and separate offices are maintained in St. Louis, Seattle, and New York.

As to the amount of time devoted to interviewing people who come to the office of the service to inquire about lawyers, answers to the subcommittee's survey were "No fixed time", "15 minutes", "Up to 30 minutes", etc. The duration of the interview with the lawyer to whom the member of the public is referred is generally about 30 minutes for the first interview. Chicago and St. Louis report somewhat more time.

Concerning financing the lawyer referral service, in smaller communities there may be little, if any, expense incurred because the work is done largely by volunteers. In the larger communities an income to support the service is necessary. Sources of income are the following:

1. fees paid by persons seeking legal help,
2. registration fees paid by panel members,
3. a percentage of the fees collected by panel members,
4. financial assistance from either civic minded members of the bar or a chamber of commerce.

As to the first of these sources, the sub-

committee survey shows that the following cities make no charge for the initial interview: Portland, New York, Memphis, and Chicago; that St. Louis charges \$1, Philadelphia, \$1.50, and Seattle, \$10; that the Compton (California) Chamber of Commerce pays for the entire cost of the service there; that in Pontiac, Michigan, members of the bar stand the entire expense, contributing \$5 each per year; that in Knoxville, Tennessee; Waterloo, Iowa; and Sunnyvale, California, the local bar associations pay for it wholly; that in Tucson the lawyer to whom a client is referred pays to the local bar association 20 per cent of the first \$25 he receives in fees and 5 per cent of any amount above that; and that in Sacramento the lawyer returns 10 per cent of his fees to the bar association.

The Lawyer's Fee

Concerning charges for services made by lawyers who, as panel members, consult with persons referred to them, the survey indicates that in Seattle the charge for the first consultation is \$10; in St. Louis and Chicago, from \$2 to \$5; in Portland, Philadelphia, New York, Boston and Memphis, \$5; and in Washington, D.C., \$10, \$5 of which is returned by the lawyer to the bar association.

Of course, if additional services are needed by the client, beyond the advice given in the initial conference, it is expected that he and the interviewing lawyer to whom he has been referred will agree on what the future services will be and the cost of them. Most lawyer referral services in all distributed literature emphasize that if there is not hearty agreement between the client and the lawyer to whom he is referred as to the amount of any fee, the client may invoke the aid of a bar association committee, and most of these lawyer referral services explain in such connection that the fees in that event will be fixed fairly by arbitration by disinterested lawyers or other arbitrators agreed upon by

the client and his attorney.

The cost of running the lawyer referral service in Syracuse, New York, is approximately \$3,000 per year. It is met as follows. The bar association receives \$1 from each person calling on the lawyer referral service for help, panel attorneys pay \$15 per year, 5 of the larger law firms \$75 each per year, and the bar association itself pays the balance of approximately \$1,000.

In Philadelphia the referral fee received from each client is \$1.50, the registration fee received from each panel lawyer is \$10, and the Philadelphia Bar Association underwrites the balance of the expense or about 50 per cent of the total.

Lawyer referral service is self-supporting in Portland, Seattle, and several cities of California and is partly self-supporting in St. Louis, Philadelphia, and Washington. However, in New York, Chicago, Boston, and Memphis, it is not.

Advertising Is Important

Publicity is necessary for the operation of a successful service. On page 26 of the A.B.A.'s *Handbook on Lawyer Referral Service* the following statement will be found:

No bar association should set up a service unless it is prepared to devote a real effort on a continuing basis to the publicizing of the plan.

The following media are used in various locations which have been investigated: newspaper stories rather than newspaper ads which are comparatively expensive, radio and television stations, which frequently maintain public service programs and donate time to bar associations, and hand bills and leaflets describing the service. The latter are distributed to organizations such as churches, chambers of commerce, labor unions, banks, and trade associations. These organizations are generally glad to receive hand bills and to distribute them to their members.

Media used by some of the cities to whom

our subcommittee sent questionnaires are the following: Portland uses yellow pages, radio, newspaper stories, and legal aid; California cities make more use of pamphlets and leaflets; New York relies more on agencies such as courts, banks, and welfare agencies; and Memphis finds newspaper stories, radio, and television are the best publicizers of the service.

A Benefit to the Bar and the Public

To repeat, it will be found that a lawyer referral service can be organized and carried on under nearly any set of conditions.

It is the hope of the Standing Committee on Lawyer Referral Service that the bar associations of cities who do not now maintain such a service will install one for the benefit of the public and our profession. It is the best method of discharging the duty which a local bar association owes to the public to see to it that anybody who needs and wants a lawyer and does not know one is guided to a competent practitioner, the duty it owes to the profession to do a respectable public relations job, and the duty it owes to individual lawyers who need income from referred matters.

Lawyer Referral— A Brief History

(continued from page 308)

who are working in the field. In 1960 that publication blossomed into the attractive quarterly, available to all interested in its subject matter.

The Standing Committee has also had an experience in the courts of which it is particularly proud. In 1958 in an appeal prosecuted under the auspices of the A.B.A., the Supreme Court of Florida held that it was fitting and proper for a bar association to advertise the availability of legal services at reasonable costs. The opinion in that case, reported at 102 So. Rep. 2d, Page 292, is as effective a brief for lawyer referral as one would be able to find anywhere.

And the 1962 edition of the Martindale Hubbell Law Directory includes the first annual directory of lawyer referral services.

Much remains to be done. Lawyer referral, after all, has a much greater potential clientele than does legal aid and it behooves the bar to do its utmost to find and serve that clientele. For that, it must do more than establish lawyer referral services—it must keep them vital by constant publicity and by compiling and disseminating more and more information about the job that is being done. In short, lawyer referral must strive to achieve the high public acceptance already achieved by legal aid.

This may require the time and devotion of even greater numbers of dedicated lawyers. In many cities it may require permanent paid staffs.

Whatever is needed can come only with the continued support of the organized bar.

LAWYER REFERRAL

as correlated with

OTHER BAR SERVICES

By
PAUL
CARRINGTON



PAUL CARRINGTON, a director of the American Judicature Society, is chairman of the Standing Committee on Lawyer Referral Service of the American Bar Association.

LAWYER referral is a function of an organized local bar which seeks to serve the public of its locality. The locality may be a metropolitan area of great size, a city, a town, a county or some geographical section of a city or a county. If two or more bar associations serve that locality, each may undertake lawyer referrals, or they may merge their efforts in operating a single service through a joint committee.

As a function of an organized bar, the primary purpose of lawyer referral is to aid that bar association in serving the people of the locality. Another purpose is to strengthen that bar, in order that it may better serve in all its activities. Of course lawyer reference work must be correlated with every other activity of the local bar, must be operated to be consistent with the other activities of the bar and, whenever possible, to aid and promote them. Conversely, each of the other activities should help the lawyer reference work whenever possible.

This article summarizes briefly the experience of various local bars in developing effective cooperation between lawyer referral committees and various other committees, to the benefit of all concerned.

Lawyer Referral and Legal Aid

A soundly organized and financed legal aid service is needed in every city. The public and the bar increasingly appreciate this necessity. The day approaches when a legal aid bureau will be serving in every city, as one does now in the large majority of the larger cities, some as a service of the bar, some of the municipality, and some as a service of the organized charities. Those individuals without sufficient income or property to pay for the legal services they need, those able to qualify for legal aid, are served. Because the work of legal aid has been better organized and more widely publicized and is the older, legal aid is a senior partner to lawyer referral.

Those interested in lawyer referral serv-

ice in any local bar, working through the local bar and for it, need to work in harmony with the legal aid organization of the community, first of all, whether the bar is operating the legal aid organization or is merely cooperating with it. Such cooperation between legal aid and lawyer referral is natural and to be expected. For neither service can be fully efficient without the help and cooperation of the other. The bar of any locality where only one of these services is available, a bar which defers the organization of the other, is attempting to "fly with one wing."

The Potential Is Great

The number of people in every community who are prospects for lawyer referral services is much larger than the number of those who are prospects for legal aid. Approximately 25 per cent of the population of our cities are prospects for lawyer referral service. From our growing experience with lawyer referrals in countywide bar associations in rural areas, we believe the percentage of prospects there to be comparable. Some such percentage of the people everywhere in our country have never employed a lawyer, know no lawyer that they would be inclined to employ if a need for legal services developed, and have no basis for judging soundly whether they need the services of a lawyer or not. A very high proportion of these people have a strong reluctance to employ a lawyer under any circumstances, being fearful of legal controversy in general and of lawyers and legal fees. Through a well organized and well advertised lawyer referral service, the organized bar in every community can gradually educate a large portion of these people to appreciate when legal service is needed, how to obtain it and to pay reasonably and fairly for it. Most of these people can and will prefer to pay for what they receive.

An advertisement by a local bar explaining both services can best inform the public that legal service is available for all

who need it, those who qualify for legal aid and those who do not. Those who apply for legal aid and do not qualify for it need not be turned away: If a lawyer referral service is functioning, legal aid will usually serve as a chief source of clients. And those who apply for a lawyer referral who are found to qualify for legal aid would be so referred. Exchange of experiences occasionally and comparisons of the records of the separate offices of legal aid and lawyer referral, from time to time, may strengthen each. Proximate locations for the separate offices are frequently found to be of advantage. And where, as in smaller cities, there seems insufficient local need for two such offices for the time being, both services may be performed in one office and with overlapping personnel.

For these reasons, Standing Committees on Legal Aid Work and on Lawyer Referral Service of the American Bar Association have been cooperating completely and insofar as we know, separate committees on these two subjects in state bars and in local bars have invariably found such cooperation to be highly advantageous.

Of course, it is entirely appropriate for legal aid to be conducted in any city by an agency which is financially supported by its United Fund. This is done in numerous cities at the instance of its local bar or of individual lawyers. Such lay sponsorship of one of these two dual services so important to our profession, when the other cannot be sponsored by anyone other than the organized bar of the city, does not prevent such cooperation.

What the organized bar does not do toward meeting these needs of the people, government will do. In *Survey of the Legal Profession* (1954), Mr. Reginald Heber Smith, the one in our profession who, above all others, has done most for the bar in these twin fields of service, well said:

Legal aid offices and legal services offices are much better when entrusted to bar associations, rather than governmental bureaus; but legal aid offices and legal services

offices conducted by government are much better than none.

Legal services to men while in the armed forces are rendered customarily by lawyers who themselves are in the armed forces and are assigned to such responsibilities. There are, however, a number of such legal services that cannot be performed there and involve services back home for the man in uniform or for his dependents. Bar associations located in a number of cities have committees for aiding in the rendition of legal services to, or for, these men in uniform. The American Bar Association has a Standing Committee on Legal Assistance for Servicemen. Our committee has cooperated completely with it and with those in charge of the rendition of legal services to men in uniform on behalf of each of the three branches of the service. We have urged, and been assured of, like cooperation by lawyer referral committees at state and local levels. Steps are being taken currently for utilizing this opportunity. All lawyer referral resources are listed annually as of the commencement of this calendar year, in the lawyer referral directory published by Martindale-Hubbell: For 1962 see Volume III, page 105 A, et. seg.

A Public Relations Program for Lawyer Referral

We believe that one of the most effective demonstrations of the public-spiritedness of lawyers can be made by frequently presenting the story of legal aid and lawyer referral jointly to the public and occasionally presenting these dual themes separately. This, of course, should be in addition to the presentation of other public services rendered by local bar associations and lawyers.

It has been decided by committees on professional ethics, and by the courts that an organized local bar association can properly advertise such services, whereas individual lawyers or other groups of lawyers, should not. Mr. Theodore Voorhees of Philadelphia, who had much to do with the establishment of its lawyer referral

service and who was formerly chairman of our A.B.A. committee, reported to the 1960 annual convention of A.B.A., a number of ways in which the advertisement of lawyer referrals in his city had benefited the public, the organized bar and individual lawyers of Philadelphia:

(a) During a 10 year period ended in 1958 the Philadelphia Bar in its lawyer referral service had served 30,288 persons, 22,340 of whom had never before consulted a lawyer. Mr. Voorhees stated: "This record of accomplishment was the result of several factors: newspaper, radio, television publicity, posters, word-of-mouth publicity and promotion by the City of Philadelphia." At one time the city enclosed 500,000 letters about lawyer referral with its tax bills at no cost to the association.

(b) Five-minute dramas, "Without Counsel," pointing up the value of preventive legal advice and the lawyer referral service, were broadcast by a local station in Philadelphia as a public service.

(c) Numerous items of bar advertisements and current informational items of news appeared in the public press about lawyer referral and legal aid.

(d) References to lawyer referral service were included in pamphlets published by banks and by insurance companies given broad distribution in Philadelphia.

(e) Wide distribution of a pamphlet prepared by our committee, "When Do You Need a Lawyer?" was given to white-collar workers employed by various corporations in Philadelphia. Comparable distributions of other material relating to legal aid and lawyer referral were made to employees of corporations generally on the theory that their legal departments are not equipped to give legal advice to all in the company's employ and should not undertake this.

(f) The Committee on Public Relations of the Philadelphia Bar arranged for spot announcements on radio and television and for the exhibition of video slides.

In short, Mr. Voorhees urged that the repetition of a slogan is needed to make the public conscious of the service of the bar just as it is necessary in commercial advertising, "*An Ounce of Legal Prevention is Worth a Pound of Courtroom Cure.*"

Certainly one of the best lawyer referral

services in America has been at Grand Rapids, Michigan. Its experience in tabulated form is presented on page 322 of this issue. There the year reported in itemized form is 1960, not 1961. In 1959 the results in that city were less favorable than the preceding year because of a reduction in advertising by the local bar. With a resumption of advertising in 1960 the results were much better than before. When all advertising by the local bar was stopped in 1961, it dramatically demonstrated that lawyer referral benefits are truly dependent on public relation activities of the bar.

The experiences of many other bars in addition to those in Philadelphia and Grand Rapids testify to this. The lawyer referral service in every city depends on the cooperation and help of the public relations committee of that bar for the results that it should have.

Helping to Combat Unauthorized Practice

Mr. Theodore R. Meyer, president of the State Bar of California, refers in a companion article in this issue to the origin of the recently increased activity of the California State Bar in encouraging the adoption of lawyer referral services by local bar associations; one occasion for this important development is referred to as the studies made in California in connection with the rendition of group legal services. There have been comparable problems to the one faced by the California State Bar, in that field, which relate to the practice of law by corporations, by labor unions, and by associations of lawyers not authorized to practice as a group. The Standing Committee on the Unauthorized Practice of the Law of the American Bar Association and our committee have conducted joint studies on these problems in which A.B.A. Committees on Continuing Legal Education, on the Economics of Law Practice, and on Professional Ethics have collaborated. Close cooperation among the directors of the local bar association and its committees on all of these subjects with those conducting its

lawyer referral service will develop proper answers for problems that have developed and further such problems that may be expected to develop in this area.

Lawyer Referral Services and Continuing Legal Education

Lawyer referral service needs the help of, and can be of benefit to the work of, continuing legal education in the local bar. In Lawyer Referral Bulletin, April 15, 1961, Mr. Churchill Rodgers, chairman of the A.B.A. Committee on Continuing on Education of the Bar, outlined many reasons for increasing cooperation between referral and educational committees of the organized bar at national, state, and local levels. Anyone considering how such committees may best be of mutual assistance should acquaint themselves with that bulletin.

Of course, there is a strong relationship between the work of these two committees. The tabulation in this issue of what has been accomplished in fees paid to the attorneys of Grand Rapids, Michigan, each year on employments referred to them by the lawyer referral service, clearly demonstrates the possibilities. It must be remembered that the same clients are not served by lawyer referral repetitively in most communities. However, clients are expected, in the absence of some reason to the contrary, to learn how to employ lawyers and to be served by them after their first referral. The Grand Rapids' statistics show only the fees on initial referrals of clients by the association's service, including those first made to clients who have sought the service after hearing of the satisfaction of others with lawyer referral. They do not include the fees paid for subsequent services. These subsequent services which do not pass through the referral office, are thought to involve a much greater aggregate of fees each year than the initial fees represent.

One illustration of cooperation between these two committees of the bar can be seen in annual check-up programs. Advertise-

ments of the bar urge all businessmen of the community to consult a lawyer for such a check-up. These advertisements can be much more effective if a local lawyer referral service is also mentioned. Then, all in the community are encouraged to participate in the annual legal check-up, each with his own lawyer if he has one, with a lawyer of his choice if he does not have one or, with a lawyer to whom he may be referred by the lawyer referral service.

An Opportunity for the Junior Bar

Mr. Justice Jackson, in the December 1949 issue of the American Bar Association Journal relating to "Lawyer Reference Plans," said:

The bar is given a monopoly of the privilege of rendering legal services. This puts it under a responsibility unlike that of traders. . . . In the nature of things the well-to-do have always been able to get good legal service. It would be a disaster to the bar, however, if it could be said that only the well-to-do are served by it.

The local bar which trains the incoming additions to its membership in the highest principles of professional ethics and wishes, at the same time, to give them experience at that period of their practice where they need it most, can well emphasize the placing of junior bar members on its lawyer referral panels.

How many panels the lawyer referral service of a city should have, and on each of how many differing subjects it should have separate panels, depends upon the demand in that city for lawyer referrals. What qualifications should be imposed for membership on any such panel, are problems which the American Bar Association is currently studying. Association committees are analyzing the prospective specializations of the bar. If there are enough lawyers in a city willing to comply, it is suggested as a minimum standard that members of panels dealing with a specialized subject be required to attend courses of continuing legal education in their specialty, if local circumstances justify such programs. For ex-

ample, one city emphasizing a campaign in the field of unauthorized practice against title companies has conducted an institute on real estate law and qualified as many of the lawyers of that local bar as possible for serving on the real estate panel of its lawyer referral service.

The directors of the local bar who authorize panels in varying subjects in operation of its lawyer referral service should be sure of cooperation between its committees on continuing legal education, economics of law practice, its junior bar and those who are conducting its lawyer referral service.

In 1961, a survey of existing and potential legal aid and lawyer referral services in the cities of Texas was conducted by the Law School of Southern Methodist University in cooperation with the State Bar of Texas. Dean John W. Riehm of that law school reported an unexpected dividend to the law school from the completion of this study:

An unexpected benefit to the law school from the survey on lawyer referral has been the development of materials in a single course of the legal profession. Education of graduating seniors in lawyer referral will enlarge their perspective, offer them additional financial incentives and expand the growth of these programs and other services of the local bar through participation by enthusiastic young practitioners.

All opportunities of cooperation between lawyer referral committees and other committees of a local bar have not been fully discussed in this brief article. Developments in the areas discussed may well persuade the leaders in any local bar to carefully consider improvements which they can promote, not through the efforts of any single committee of their local bar, but by collaborative efforts of two or more committees. Lawyer referral, being necessarily a service by, through and of the local bar, surely illustrates this. Other activities of the local bar help lawyer referral and, let me emphasize, lawyer referral can and does help the many other activities of that bar which seek to serve its community.

GRAND RAPIDS BAR ASSOCIATION LAWYER REFERENCE SERVICE

The scope and development of an effectively operated lawyer referral office is demonstrated by this statistical history of the service established in Grand Rapids, Michigan, 13 years ago.

SUMMARY OF ACTIVITIES FOR 1960

Legal Problems	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Totals
Contracts and Business Instruments	8	14	12	7	13	10	8	12	10	13	9	5	131
Corporations and Partnerships	1	0	0	0	0	0	0	0	0	0	1	0	2
Criminal Law—State	1	4	2	2	4	3	2	2	2	1	3	3	29
Criminal Law—Federal	0	0	0	0	0	0	0	0	0	0	0	0	0
Domestic Relations	9	14	9	22	11	19	16	18	18	13	11	12	172
Wills, Estates and Probate Practice	4	8	3	4	7	9	5	2	4	2	3	3	54
Insurance	0	2	2	0	0	0	1	2	1	0	1	1	10
Patents, Trade Marks & Unfair Competition	1	1	1	1	1	0	0	0	0	0	0	0	5
Personal Injury and Personal Prop. Rights	6	6	12	15	10	9	15	19	7	6	12	8	125
Real Estate	3	4	5	5	7	7	6	5	4	3	7	1	57
Taxation—State	1	1	0	0	0	0	0	0	0	0	0	0	2
Taxation—Federal	0	0	0	1	0	0	0	0	3	0	1	0	5
Workmen's & Unemployment Compensation	0	1	2	3	0	5	2	1	3	0	2	0	19
Labor	0	0	0	0	1	0	0	0	0	0	0	0	1
Bankruptcy	4	4	2	1	4	6	3	0	2	0	3	3	32
Conferences and Referrals													
Conferences—No Referral	5	5	2	6	12	6	8	1	5	11	7	4	72
Referrals	38	59	50	61	58	68	58	61	54	38	53	36	634
Totals—Referrals and Conferences	43	64	52	67	70	74	66	62	59	49	60	40	706
Cash fees reported on Referrals	\$ 2,427	4,134	4,055	4,378	4,126	3,230	6,230	3,089	4,917	10,085	4,102	4,739	\$55,516

SUMMARY OF ACTIVITIES, CONTINUED
APRIL 1, 1949, THE FOUNDING, TO DECEMBER 31, 1961

Year	Number of Conferences	Resultant Referrals	Fees Reported
1949	180	102	\$2,240.32
1950	352	239	4,839.95
1951	322	230	6,086.31
1952	633	489	12,433.53
1953	640	530	17,647.94
1954	814	677	23,224.19
1955	752	655	28,811.12
1956	750	649	31,383.00
1957	813	719	42,601.10
1958	977	876	46,362.89
1959 (No T.V. or radio publicity.)	766	711	40,968.52
1960	706	634	55,516.33
1961 (No publicity.)	609	538	24,447.66

SOURCES OF CLIENTS

Source	1952	1953	1954	1955	1956	1957	1958	1959	1960
Television and Radio	249	222	206	155	192	240	244	104	56
Legal Aid and Family Service	162	175	264	249	205	182	320	247	265
Pros. Atty. Courts & County Bldg.	56	60	99	108	86	79	72	59	68
Former Clients and Friends	75	110	155	150	163	185	202	210	172
Attys., City Hall, Better Business	23	118	19	49	70	71	85	91	85
Police, Press, Phone Book, Placards & Misc.	68	55	71	41	34	56	54	55	60
Total Clients	633	640	814	752	750	813	977	766	706

THE BAR ASSOCIATION OF ST. LOUIS, MISSOURI, sponsors one of the many outstanding lawyer referral programs. In this photograph, Mrs. Lucille Wiley Ring, attorney and director of the service, speaks with one of the more than 300 persons who seek competent legal assistance each month at its office in the Civil Courts Building.



Selected Annotated Bibliography on Lawyer Referral

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COMMITTEE ON LAWYER REFERRAL SERVICE

1155 East 60th Street, Chicago 37, Illinois

I should like to receive the following materials listed in the above bibliography:

- | | |
|---|--|
| <input type="checkbox"/> Lawyer Referral Directory | <input type="checkbox"/> Publicizing Handbook |
| <input type="checkbox"/> Lawyer Referral Handbook | <input type="checkbox"/> Reprints 24 <i>Texas Bar Journal</i> 1961 |
| <input type="checkbox"/> <i>ABA Journal</i> article by Orison S. Marden, 1957 | <input type="checkbox"/> Ten Questions for Lawyers |
| <input type="checkbox"/> How to Get a Lawyer When You Need One | |

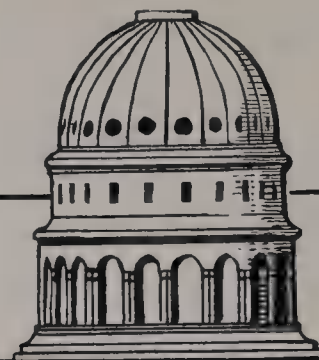
☐ I should like to be placed on the mailing list to receive your quarterly publication, the Lawyer Referral Bulletin.

Name _____

Address _____

City _____ Zone _____ State _____

The March of Progress



New York Court Reform Signed Into Law

Twenty-two bills implementing the first substantial reorganization of New York's court system in a century were signed into law last month by Governor Nelson Rockefeller. The legislation establishes the machinery to put the judicial reform amendment approved by the voters last November into effect on September 1.

The principal reorganization effected by the new laws consolidates courts in New York City, where only the county surrogate courts remain unchanged. Jurisdiction up to \$10,000 is given to a new single city-wide civil court, to which the 95 judges of the municipal and city courts are to be transferred. The 54 magistrates and 24 Special Sessions justices are to be transferred to a single city-wide criminal court, and domestic relations justices will go to a new family court. The Court of General Sessions in Manhattan and the county courts in Kings, Queens, the Bronx and Richmond are abolished and the transfer of their judges to the state supreme court (trial court of general jurisdiction) is authorized.

Salaries for the judges of the three new courts in New York City were fixed at \$25,000. Judges of the county, surrogate and family courts outside of New York City are to receive minimum salaries of \$20,000, which may be supplemented locally. Provision is made for a state contribution of \$10,000 toward the salaries of the surrogates and the judges of the new courts in New York City and toward the salaries of the county, family and surrogate judges upstate.

Outside the city, the principal change is the establishment of a family court in each of the 57 counties, which will be part of a state-wide family court system. The family court will have jurisdiction over all aspects of family life, except actions for separation and annulment or divorce which the constitution vests in the

supreme courts. Its jurisdiction will be exclusive over neglect, support, paternity, family offense and juvenile delinquency involving children under 16 years of age, however, for the next two years the court will share jurisdiction over adoptions with the surrogate courts. The new legislation also provides for auxiliary services in effecting family conciliations and correcting juvenile problems. A system of public defenders to represent children in delinquency and neglect proceedings who do not have counsel was also created.

Other implementing laws prohibit judges elected in the future to county, family or surrogate courts upstate from practicing law and require justices of the peace elected after September 1, who are not lawyers, to participate in a training program prescribed by the Administrative Board. Justices of the supreme court who reach the statutory retirement age of 70 and are in good health may continue to serve on the bench for six years if the court administrator finds their services are needed.

An outstanding provision unifies the state system by placing administrative responsibility for all courts in the Administrative Board. The Judicial Conference is retained as an advisory body. The board has full rule-making power, can transfer judges between courts and will supervise budgetary and personnel matters. It consists of the chief judge of the Court of Appeals and the presiding justices of the four Appellate Divisions of the Supreme Court. The presiding justices of the Appellate Divisions have direct supervision over the courts within their districts and will appoint one or more administrators from among the judges in their districts to assist in carrying out their functions. Although New York City lies in both the first and second appellate divisions, by joint action of the presiding judges, single administrators for each of the three city-wide courts were appointed early this month thereby wisely avoiding the dual administration in the city which the new laws allow.

In anticipation of the reorganization, the board is now drafting a series of reform rules, which in addition to setting court hours and the length of the terms, will curb political patronage abuses in the courts. To be issued in June or July and to take effect September 1, the rules, as now contemplated, would require all courts having appointment powers to file periodic reports with the board listing the names of all those appointed as referees, receivers and guardians, the names of the judges making the appointments and the fees allowed for services performed. These reports would be open for public inspection. Others are directed towards ending the tradition under which political organizations have required those elected to the bench to honor their recommendations for secretaries, court clerks and other jobs exempt from competitive civil service requirements.

The legislature continued the Joint Legislative Committee on Court Reorganization, which drafted the implementing bills, with an appropriation of \$250,000 to work out problems that have not yet been solved, e.g. a state-wide district court act and measures to encourage the voluntary substitution of district courts for local justices of the peace permitted under the new judicial article. Such provisions must still come before the legislature if the reorganization is to be completed.

Ohio Bar Reaffirms Judicial Selection, Approves Court Reorganization Plans

The Ohio State Bar Association has reaffirmed its support and sponsorship of the Ohio plan for appointive-elective judicial selection. The Association approved a new appropriation for the Committee on Judicial Selection and Tenure, which drafted the amendment, and authorized it to proceed with active promotion of the reform. The committee has recently published a new brochure describing the plan, and at the invitation of C. Kenneth Clark, chairman of the committee, Glenn R. Winters, executive director of the American Judicature Society, addressed a session on the subject at the annual meeting of the Association early this month.

At the same meeting, the Council of Delegates also approved a court reorganization proposal drafted after three years of study by the Judicial Reorganization Committee under the chairmanship of Earl F. Morris. The amendment would eliminate probate, juvenile, municipal, county police and mayor's courts and transfer their jurisdiction to a single common pleas court in each county. The state supreme court would have power to establish specialized divisions in the new unified court. County commissioners would be given the responsibility for providing courtrooms and for filing and maintaining records, but uniform salaries for the county judges would be paid by the state. In addition, the proposed amendment would unify the entire state court system by vesting the supreme court with the rule-making power and administrative authority, including power to assign and transfer all judges.

The Association's judicial selection plan, patterned after the system advocated by the American Judicature Society, was approved in a referendum of the members in 1957, and by the Council of Delegates in 1959. Although it was submitted to the legislature in 1960, it was never brought to a vote. The plan calls for appointment of judges by the governor from a list of three nominees submitted to him by a bi-partisan judicial nominating commission of five lawyers and five laymen appointed by the governor and confirmed by the senate. After each six year term, a judge would run against his record, the electorate voting on the question, "Should Judge . . . be retained?" If a judge failed to get a majority affirmative vote, the governor would appoint a new judge from among commission nominees. Although the proposal is limited to the supreme court and courts of appeals, it includes a local option provision which would enable counties to adopt the system.

Strong support for the plan was also reaffirmed at the statewide Conference on Judicial Selection for judges, lawyers and laymen, held under the auspices of the Association in March, 1961 (April, 1961 Journal, p. 220). Although the Association's campaign to have the plan reintroduced into the legislature has been delayed by the program to establish the new Ohio Legal Center, both it and the court reorganization proposals may go before the legislature in 1963.

Court Administrator Post Created in Philadelphia

The fight against court congestion in Philadelphia was carried another step forward last month when the Board of Judges created the new post of Administrator of the Courts of Common Pleas, selecting Judge Vincent A. Carroll for the position. Established at the suggestion of the Philadelphia Bar Association and recommendation of Chief Justice John C. Bell (April Journal, p. 289), the new office will have a budget of about \$90,000. It is estimated that \$50,000 will be spent on pre-trial panels and \$40,000 on the staff to implement policy. The staff will include a commissioner, who will be a lawyer, a deputy commissioner, and a secretary.

In addition to providing administrative unity for the seven Courts of Common Pleas, the administrator will maintain statistics on the workload of each of the 21 judges and develop means of expediting litigation. Under consideration are proposals calling for establishment by the legislature of an additional three-judge Common Pleas Court, a fee system to keep active cases on the civil trial list, and a pre-trial conferee system. Under the latter system cases would be expedited by having lawyers take routine testimony and admit evidence to the point where differences

were involved and then the case would be turned over to a judge.

Consolidation of Connecticut's Trial Courts Proposed

A plan to consolidate Connecticut's trial courts was approved by the Connecticut State Bar Association last month for submission to the General Assembly in 1963. The legislation to merge the Court of Common Pleas into the Superior Court is being drafted by a special committee of the Association and the Legislative Council, the bipartisan research arm of the General Assembly. In addition to the merger, to combat court congestion the proposal would add seven judges to the new Superior Court giving it a total of 41. The plan has the endorsement of Chief Justice Raymond E. Baldwin.

If adopted the plan will complete a reorganization of Connecticut's judicial system began when the maze of lower courts was consolidated into the Circuit Court on January 1, 1961 (June, 1959, Journal, p. 25). Under the present law, the Court of Common Pleas no longer has any criminal jurisdiction and its civil jurisdiction overlaps both that of the Superior Court and the Circuit Court.

MEMBERSHIP APPLICATION FOR JUDGES

American Judicature Society
1155 East Sixtieth Street, Chicago 37, Illinois

Name: _____

Court: _____

Year admitted to the bar: _____ ☐ Active ☐ Retired

Address: _____

City: _____ Zone: _____ State: _____

Membership dues are \$10.00 and include a subscription to the Journal. Dues are deductible for federal income tax purposes.

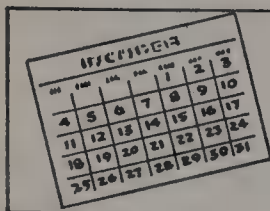
☐ Enclosed is my check

☐ Bill me

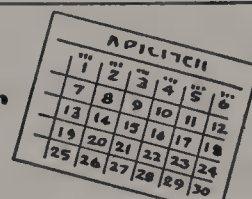
Please send:

☐ My complimentary copies of *Handbook for Judges, Judicial Retirement and Pension Plans* (if still available), and *A Survey of Judicial Salaries in the United States and Canada* together with my membership certificate.

☐ Information about the Society's life, disability, major medical and accident group insurance programs.



Bench and Bar Calendar



May

- 24-26—National Conference on the Unauthorized Practice of Law, New York City.
- 28-29—The Association of Life Insurance Counsel, semi-annual meeting, White Sulphur Springs, West Virginia.
- 31-June 2—American Bar Association regional meeting, Salt Lake City, Utah.
- 31-June 2—Utah State Bar, Salt Lake City.

June

- 1—American Judicature Society regional meeting, Salt Lake City, Utah.
- 4—Iowa non-partisan judicial selection amendment goes to voters.
- 4-8—A.B.A. Traffic Court Conference, New York, New York.
- 6-8—Arkansas Bar Association, Hot Springs.
- 6-8—The Iowa State Bar Association, Cedar Rapids.
- 6-8—Georgia Bar Association, Savannah.
- 7-9—Tennessee Bar Association, Nashville.
- 7-9—Judicial Conference for the Tenth Circuit, Wichita, Kansas.
- 7-9—Ninth Annual Illinois Judicial Conference, Chicago.
- 8-12—New York State Title Association, Pocono Manor, Pennsylvania.
- 12—The Bar Association of the District of Columbia, Washington, D.C.
- 12—Federal Bar Association of New York, New Jersey and Connecticut, New York City.
- 13-15—Minnesota State Bar Association, Minneapolis.
- 13-16—State Bar of Wisconsin, Delavan.
- 14-16—Mississippi State Bar, Biloxi.
- 20-24—New York State Bar Association, summer meeting, Saranac.
- 21-23—Illinois State Bar Association, Chicago.
- 21-23—Maryland State Bar Association, Atlantic City, New Jersey.
- 21-23—Montana Bar Association, Bozeman.
- 22-23—The State Bar of South Dakota, Huron.
- 26-27—Conference for Judges, sponsored by the Joint Committee for the Effective Administration of Justice, Crotonville, New York.
- 28-29—State Bar Association of North Dakota, Bismarck.
- 28-30—Judicial Conference of the Fourth Circuit, Roanoke, Virginia.
- 28-30—Pennsylvania Bar Association, summer meeting, Atlantic City, New Jersey.
- 29-30—Bar Association of the State of New Hampshire, Jefferson.

July

- 1-5—The American Association of Law Libraries, San Francisco.
- 4-6—State Bar of Texas, San Antonio.
- 5-7—The Virginia State Bar Association, Hot Springs.

- 6-10—Commercial Law League of America, White Sulphur Springs, West Virginia.
- 6-12—The American Association of Law Libraries, Mid-Pacific Conference, Hawaii.
- 9-10—State Bar of Texas and Mexican Bar, joint meeting, Mexico City.
- 9-11—Pacific Northwest Seminar of Judges, sponsored by the Joint Committee for the Effective Administration of Justice, Seattle.
- 9-13—A.B.A. Traffic Court Conference, Denver, Colorado.
- 9-August 3—Practicing Law Institute, twenty-first annual summer session.
- 12-14—Idaho State Bar, Sun Valley.
- 16-18—International Legal Aid Association, Edinburgh, Scotland.
- 16-20—International Bar Association, Edinburgh, Scotland.
- 16-27—Seminar for Appellate Judges, Institute of Judicial Administration, New York City.
- 19-21—Alabama State Bar, Montgomery.
- 29—August 4—National Association of Claimants' Counsel of America, Denver, Colorado.
- 30-August 4—National Conference of Commissioners on Uniform State Laws, Monterey Peninsula, California.

August

- 1-3—National Legal Aid and Defender Association, San Francisco, California.
- 1-4—Conference of Chief Justices, San Francisco.
- 1-4—National Conference of Court Administrative Officers, San Francisco.
- 2-4—Judicial Conference of the Ninth Circuit, San Francisco.
- 2-5—National Association of Women Lawyers, San Francisco, California.
- 3-4—National Association of Defense Lawyers in Criminal Cases, San Francisco.
- 3-5—National Conference of State Trial Judges, San Francisco.
- 3-7—Junior Bar Conference of the American Bar Association, San Francisco.
- 4-5—National Conference of Bar Presidents, San Francisco.
- 4-9—American Law Student Association, San Francisco.
- 6-7—National Conference of Bar Examiners and Section of Legal Education and Admissions to the Bar of the American Bar Association, San Francisco.
- 6-10—American Bar Association, San Francisco.
- 7—Judge Advocates General Association, San Francisco.
- 8—American Judicature Society, San Francisco.
- 28-30—Maine State Bar Association, Rockland.
- 30-September 1—The West Virginia Bar Association, White Sulphur Springs, West Virginia.

September

- 1-2—Bar Association of Puerto Rico, San Juan.
- 4-6—Judicial Conference for the Third Circuit, Atlantic City, New Jersey.
- 5-6—Conference of New Jersey Judges, sponsored by the Joint Committee for the Effective Administration of Justice, Princeton.
- 6-7—Judicial Conference of the First Circuit, Boston, Massachusetts.
- 6-8—Washington State Bar Association, British Columbia.
- 10-14—A.B.A. Traffic Court Conference, Knoxville, Tennessee.
- 12-15—Oregon State Bar, Coos Bay.
- 17-21—The State Bar of California, Beverly Hills.
- 19-22—Oregon State Bar, Coos Bay.
- 23-25—Judicial Conference for the Second Circuit, Manchester, Vermont.
- 25-28—State Bar of Michigan, Lansing.
- 27-29—State Bar of Nevada, Ely.

October

- 8-12—A.B.A. Traffic Court Conference, Chicago.
- 10-13—The Missouri Bar, St. Louis.
- 11-14—American Bar Association, Board of Governors and Section Chairmen, Chicago.
- 12-13—Vermont Bar Association, Manchester Center.
- 15-16—State Bar Association of Connecticut, Hartford.
- 18—American Patent Law Association, Washington, D.C.
- 26—The North Carolina State Bar, Raleigh.
- 26-27—The West Virginia State Bar, Wheeling.

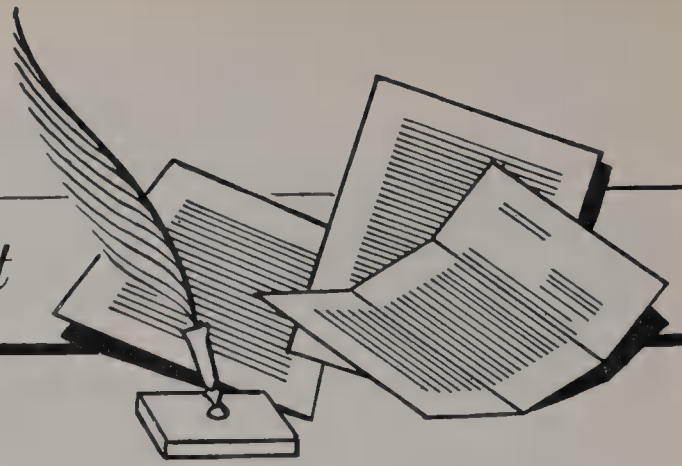
November

- 1-2—Nebraska State Bar Association, Omaha.
- 5—North Carolina judicial reform amendment goes to voters.
- 6—Colorado judicial reform amendment goes to voters.
- 6—Illinois judicial reform amendments goes to voters.
- 6—Nebraska judicial reform amendment goes to voters.
- 8-10—American Bar Association, mid-central regional meeting, Little Rock, Arkansas.
- 15-17—New Jersey State Bar Association, mid-year meeting, Atlantic City.
- 16—Bar Association of Hawaii, Honolulu.

December

- 10-11—The Association of Life Insurance Counsel, semi-annual meeting, New York City.
- 28-30—Association of American Law Schools, Chicago, Illinois.
- January 30-February 2, 1963—Pennsylvania Bar Association, Pittsburgh.
- April 17-21, 1963—American Bar Association, northeast regional meeting, Syracuse, New York.

The Reader's Viewpoint



High-Minded Lawyers Are a Prerequisite for Effective Justice

The trouble with the law is the lawyers. No matter what you do to elevate the legal process to the plane of a creative act of justice, they are forever dragging it down again to the level of a prize fight. You institute written requests for admissions in an effort to speed up the administration of justice. Instead, they use them as a shotgun device to hinder and confuse their opponents, clogging court calendars with fruitless arguments over the propriety of their pointless requests. You institute written interrogatories for the same purpose, and they do the same thing. You institute pre-trial conferences, and they make a mockery of them. Their whole concern is for getting back to the bluff, deception and obstructionism of the old courtroom brawl.

I am speaking, of course, of the majority of lawyers, not of those rare exceptions with whom it is a pleasure to deal as opposing counsel. With these men a litigation becomes a sincere search for a just and speedy result, without losing its adversary character. For them pre-trial is unnecessary; for the rest, it is largely ineffectual.

The trouble, then is an attitude of mind. The solution is to have more high-minded men in the profession and less of those who model their technique on the tactics of the boxing ring.

This is not an easy solution. As long as litigation remains an adversary process it is bound to arouse our primitive fighting instincts. But it seems to me that a few clues may be found.

For one thing, I have observed that the high-minded lawyer is generally the one with a broad point of view. He is not the kind of man who knows everything about the law and nothing about anything else. He does not practice law in a vacuum, but is keenly aware of its impact on every kind of human activity.

This breadth of viewpoint may come from a natural interest in all sorts of people and things. There are some individuals for whom narrow-mindedness is an impossibility, regardless of their education.

There is no lack of professional competence. The present generation of lawyers have a sufficient knowledge of the law, and a more than sufficient ability to fight. The lack is in the training they receive before law school.

Another clue may be found in the much publicized statistics on the low income of lawyers in private practice. I very much doubt whether this situation can be solved by any amount of talk about law office management or public relations of the profession. To me, these statistics mean just one thing: There are too many lawyers for the amount of legal business that exists in this country.

If that is so, it should be made more difficult to become a lawyer. According to my views expressed above, the added difficulty should not be in the form of stricter professional training. It should not be made more difficult to get through law school but more difficult to be admitted. I propose that this be done by requiring every prospective law student to show that he had had a full four-year course at one of the best colleges or universities in the land. Not only that, but his course must include as wide a variety of subjects as possible. Let him study music, French poetry, oriental art, Greek philosophy and nuclear physics. Let him become aware of every kind of creative human activity, and come out of it with the broad outlook of what used to be known as a man of liberal education. Then if he has enough love of the law to carry him through his professional training, he will use that training later on, not as a boxing glove, but as an instrument for the creative administration of justice.

STANLEY BROOKS

77 Throckmorton Avenue
Mill Valley, California

Assignment of Counsel Must Not Be Delayed

I feel that one of the most current problems of judicial administration is in the field of criminal law. Specifically, I wish to call attention to the glaring lack of protection of an indigent defendant's rights upon arraignment. Often, I am asked by our county judge to represent, without fee, an indigent defendant who has been indicted by the grand jury for a felony. I find that not only has a confession been signed, preliminary examination been waived, but also the time that has elapsed from the date of the first arraignment upon arrest, and the date of arraignment after indictment is sometimes up to three months. For example, a defendant who is arrested say on July 1, will not be indicted, if at all, until the September grand jury meets. Consequently,

his arraignment following any indictment will not be until late September or early October, depending on the number of cases which the grand jury has before it. The results are these: the defendant has spent all of this time in jail, not having an attorney to negotiate bail; also, any investigation is quite stale after such a time lapse.

My suggestion is that legislation is badly needed, wherever this situation exists, calling for the judge or justice of the peace, upon arraignment following an arrest or any charge which comes within the purview of the grand jury, to assign immediate counsel to an indigent defendant. Presently, such procedure is not allowed the arraigning judge, and the consequences are partially as stated above.

ANTHONY A. ROSE

First National Bank Building
Utica, New York

Index to Volume 45

Volumes 1 through 20 of the Journal are indexed in a separately-printed cumulative index. Copies of it will be mailed without charge upon request. A second cumulative index for volumes 21 through 45 is now in preparation, and announcement will be made in the Journal when it is ready for distribution.

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A Page of Late News at Press Time

Wisconsin Conference Supports Judicial Selection Reform

More than 100 judges, lawyers, newspapermen and other civic and community leaders gathered in Madison, Wisconsin, May 18 and 19 for the statewide Conference on Judicial Selection and Tenure, sponsored by the Wisconsin State Bar Association, the Judicial Council and the Joint Committee for the Effective Administration of Justice. Supporting revision of the present elective system, the consensus of the conference endorsed appointment of judges by the governor from a list of nominees named by a nominating commission and retention of judges in office by periodic reelections on the basis of their record and without opposing candidates.

The consensus was reached by majority vote of the conferees after they had participated in each of four panel discussions on the "Present Wisconsin System," "Our Systems and the State Bar Proposal," "Removal, Discipline and Retirement," and "Action Programs for Improvements," and heard addresses by local and national authorities.

Although no formal proposal to change the Wisconsin law is now before the State Bar, John E. Conway, professor of the University of Wisconsin Law School and conference director, said at the opening assembly that recommendations for reform would be based on the observations and reactions of the participants in the conference.



Conference keynote speakers and panel discussion leaders included (seated left to right) JUSTICE GEORGE R. CURRIE of the Supreme Court of Wisconsin, JUSTICE TOM C. CLARK of the U.S. Supreme Court, JUSTICE E. HAROLD HALLOWS of the Supreme Court of Wisconsin, (top row) PERRY C. HILL of the Milwaukee Journal, Wisconsin attorneys JOHN G. KAMPS, JOSEPH D. DONOHUE and J. R. DEWITT and Conference Director JOHN E. CONWAY.

The conference is the sixth program of Project Effective Justice, a series of statewide and regional meetings sponsored by the Joint Committee for Effective Administration of Justice, of which the American Judicature Society is a leading participant. Daniel L. Skoler, assistant director of the Society, was the Joint Committee coordinator for the conference.

THE AMERICAN JUDICATURE SOCIETY is a national legal organization founded in 1913 to promote the efficient administration of justice. Since its inception the Society has fostered judicial reform by publication of the *Journal*, by distribution of literature to persons interested in judicial administration, by assistance to state and local professional and civic organizations engaged in specific judicial reform projects, and by independent research in the administration of justice. The Society is supported entirely by the dues received from its 21,958 members. Voting memberships are open to members of the bar; associate memberships are open to anyone interested in improving judicial administration. Dues are \$10.00 per year, and \$5.00 per year for lawyers who have been admitted to the bar for less than five years. Persons interested in membership should either contact a member of the board of directors listed on the inside front cover of the *Journal*, or write to the Society directly at 1155 East Sixtieth Street, Chicago 37, Illinois.

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